



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JLP:ddj

Docket No: 2156-00

03 October 2000

CDR [REDACTED] USN

Dear COMMANDER [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 03 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum 1780 PERS 604 of 9 May 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1780
PERS-604
9 May 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO CDR [REDACTED]
[REDACTED] USN, [REDACTED]

Ref: (a) CNPC memo 5420 PERS-00ZCB of 28 Apr 00
(b) Title 38, United States Code, Chapter 32
(c) Veterans' Benefits Improvement and Health-Care
Authorization Act of 1986, Public Law No. 99-576

1. The following is provided in response to reference (a):

a. Recommend denial of CDR [REDACTED]'s request to enroll in Veterans' Educational Assistance Program (VEAP) and convert to Montgomery GI Bill (MGIB) Program. Per reference (b), VEAP was available to members who entered the military for the first time between 1 January 1977 and 30 June 1985. It was closed to new enrollments on 30 June 1985, but reopened for a five-month period from 28 October 1986 to 31 March 1987. This program was officially closed in 1987. Members who did not enroll by these deadlines lost their eligibility.

b. Members were offered VEAP when they initially entered active duty and made their election whether or not to enroll. Regarding CDR Ziska's statement of "There is no record to be found of my either accepting or declining an opportunity to enroll in the Veterans' Education Assistance Program..", the law did not require VEAP briefings nor was there a requirement to maintain members' VEAP enrollment election forms (DD Form 2057) in service records or on microfiche. Additionally, reference (c), the law covering the VEAP open period, required the Secretary of Defense to "carry out activities for the purpose of notifying to the maximum extent feasible," eligible individuals of the opportunity to enroll prior to 1 April 1987. In order to notify servicemembers of this open period, Navy released two NAVOPs, one in October 1986 and a second in March 1987. Furthermore, this office coordinated with Navy Times and published an article on the VEAP open period in the 30 November 1986 issue. Again, there was no requirement for individual briefings.

c. Since CDR [REDACTED] did not elect to enroll in VEAP initially nor during the open period, he is not eligible for VEAP or Montgomery GI Bill Program enrollment now. Unfortunately, Navy does not have the authority to overrule legislation pertaining to

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[REDACTED], USN, [REDACTED]

enrollment procedures and deadlines.

2. PERS-604's point of contact is EM1(SW) [REDACTED] who can be reached at (DSN) 882-4262 or (C) 901-874-4262.

[REDACTED]
[REDACTED]
Commander, U.S. Navy
Deputy Director, Navy Drug & Alcohol,
Fitness, Education, and
Partnerships Division (PERS-60)
Acting